

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Shaun E. Dowdy,

Case No. 1:21-cv-1933

Petitioner,

v.

ORDER

Keith J. Foley, Warden,

Respondent.

Before me is the July 22, 2022 Report and Recommendation of Magistrate Judge Amanda M. Knapp, (Doc. No. 14), recommending I grant the motion of Respondent Keith J. Foley to transfer Petitioner Shaun E. Dowdy's petition for a writ of habeas corpus under 28 U.S.C. § 2254, (Doc. No. 1), to the United States Court of Appeals for the Sixth Circuit as a second or successive petition. (Doc. No. 8). Judge Knapp recommends I conclude Dowdy must first obtain the Sixth Circuit's permission to proceed with his petition because Dowdy previously filed a § 2254 petition which was denied on the merits.

Under the relevant statute, "[w]ithin fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court." 28 U.S.C. § 636(b)(1); *United States v. Walters*, 638 F.2d 947, 949 (6th Cir. 1981). Dowdy sought, and I granted, an extension of time in which to file objections. (*See* Doc. No. 15; non-document entry dated August 4, 2022). Pursuant to my August 4 order, Dowdy's deadline to file his objections was September 5, 2022. Dowdy has not filed any objections and that deadline has passed.

The failure to file written objections to the Magistrate Judge's Report and Recommendation constitutes a waiver of a determination by the district court of an issue covered in the report.

Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also Walters*, 638 F.2d at 950; *Smith v. Detroit Fed'n of Teachers, Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) (“[O]nly those specific objections to the magistrate’s report made to the district court will be preserved for appellate review”).

Following my review of the Magistrate Judge's Report and Recommendation, I accept Judge Knapp's recommendation and conclude Dowdy's petition should be transferred to the Sixth Circuit pursuant to 28 U.S.C. § 2244(b)(3)(A). Respondent's motion to transfer is granted. (Doc. No. 8). The Clerk of Court is instructed to transfer this case to the Sixth Circuit Court of Appeals.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge